



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,241	02/14/2001	Ronald P. Cocchi	PD-990079	1563

20991 7590 01/15/2009
THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
2230 E. IMPERIAL HIGHWAY
EL SEGUNDO, CA 90245

EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
----------	--------------

2424

MAIL DATE	DELIVERY MODE
-----------	---------------

01/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD P. COCCHI, DONALD J. BREIER,
DENNIS R. FLAHARTY, and RAYNOLD M. KAHN

Appeal 2009-0093
Application 09/783,241¹
Technology Center 2600

Decided: January 15, 2009

Before KENNETH W. HAIRSTON, MAHSHID D. SAADAT,
and ROBERT E. NAPPI, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed February 14, 2001. The real party in interest is The DIRECTV Group, Inc.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 40 to 66.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

The Invention

Appellants' invention is directed to a method for receiving a subscriber renewal notice at a set-top box 400 through an Internet connection 120 rather than by satellite broadcast 118 (Figs. 1, 4, 5; Spec. 1-2; *see* App. Br. 2).

Claim 40, reproduced below, is representative of the subject matter on appeal:

40. A method for receiving a subscriber renewal notice comprising:

(a) receiving, in a set top box, broadcast signals through a tuner of the set top box;

(b) enabling a presentation device connected to the set top box to display the broadcast signals;

(c) automatically connecting to the Internet using a communication module of the set top box without the user requesting the connection, wherein the communication module is different than the tuner; and

(d) receiving a subscriber renewal notice over the connection to the Internet.

² Claims 1 to 39 have been canceled.

The Rejections

The Examiner relies upon the following as evidence of unpatentability:

Yamamoto	US 6,166,778	Dec. 26, 2000
Nakano	US 2002/0055847 A1	May 9, 2002 (filed Jan. 20, 1999)
Hunter	US 2002/0056118 A1	May 9, 2002 (filed Dec. 15, 2000)
Hayward	US 2003/0023703 A1	Jan. 30, 2003 (filed Sep. 16, 1999)

The following rejections are before us for review:

The Examiner rejected claims 40 to 43, 48 to 52, 57 to 61, and 66 under 35 U.S.C. § 103(a) as being unpatentable over Nakano and Hunter.³

³ The Examiner states in the Answer that additional references to Morales (U. S. Patent No. 5,291,554), Bigham (U. S. Patent No. 5,544,161), and Wool (EP 898425 A2) are relied upon as evidence of the state of the art (Ans. 3). The Examiner relies upon these additional references as showing that it is well known that decryption keys (as indicated by the Examiner, Hunter's decryption key C is equivalent to the "subscriber renewal notice" recited in the claims) are transmitted via broadcast channels (Ans. 12 and 18-19). The Examiner's citation of these additional references was simply to rebut Appellants' allegation that sending decryption keys over broadcast channels is *not* known in the prior art, and constitutes harmless error. We are not persuaded by Appellants' argument that the citation of new references was improper (*see* App. Br. 4-5). We consider the rejection of claims 40 to 43, 48 to 52, 57 to 61, and 66 as *not* relying on these additional references. In any event, the Examiner is correct that Appellants' own Specification recognizes that it is known to broadcast subscriber renewal notices via satellite (Ans. 19) (citing Spec. 2:9-11).

The Examiner rejected claims 46, 47, 55, 56, 64, and 65 under 35 U.S.C. § 103(a) as being unpatentable over Nakano and Hunter, further in view of Hayward.

The Examiner rejected claims 44, 45, 53, 54, 62, and 63 under 35 U.S.C. § 103(a) as being unpatentable over Nakano and Hunter, further in view of Yamamoto.

Rather than repeat the arguments of Appellants or the Examiner, we refer to the Briefs⁴ and the Answer⁵ for their respective details. In this decision, we have considered only those arguments actually made by Appellants. Arguments which Appellants could have made but did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

FINDINGS OF FACT

Findings of fact throughout this decision are supported by a preponderance of the evidence of record. The relevant facts include the following:

Appellants' Disclosure

1. Appellants' invention relates to a system and method of delivering pay-TV programming (*i.e.*, audio/video content data, decryption keys, billing data, etc.) via satellite using a set top box to decrypt received information (*i.e.*, metadata such as data about billing, or data other than programming content

⁴ We refer to the Appeal Brief filed June 22, 2006, and the Reply Brief filed September 28, 2007, throughout this opinion.

⁵ We refer to the Examiner's Answer mailed July 31, 2007, throughout this opinion.

data), and delivering programming purchase information to the set top box from a service provider across the Internet (Abs.; Spec. 1). As indicated *supra*, Appellants describe and claim a method for receiving a subscriber renewal notice at a set-top box 400 through an Internet connection 120 rather than by broadcast via satellite 118 (Figs. 1, 4, 5; Spec. 1-2). The method includes the steps of receiving broadcast signals via a tuner 112 at the set-top box 400, displaying the broadcast signals, automatically connecting to the Internet 120 with a communication module or modem 440 which is different than the tuner 112, and receiving a “subscriber renewal notice” over the Internet connection (claim 40). Appellants disclose that because the subscriber renewal notice which “is traditionally broadcast via satellite” can instead be sent via Internet (claim 41), valuable satellite bandwidth that is normally occupied each month for sending subscriber renewal notices can be preserved (Spec. 2:8-11; *see* claim 41).

2. Appellants disclose that “service provider facility data” includes “subscriber renewal notices” (Spec. 2:28-29), and that “[o]perator facility data” can also include subscriber renewal notices (Spec. 14:6-7). Thus, subscriber renewal notices are *data*, and can also be a type of “service provider facility data” (*see* claim 42).
3. Appellants recognize it is known in the prior art that set top boxes use subscriber renewal notices (Spec. 2:8), and that “such renewal notices are broadcast by satellite and received in the set top box” such that “valuable satellite bandwidth is occupied every month for the subscriber renewal notices” (Spec. 2:9-11).

4. The Specification does not define or otherwise explain the functionality of the *subscriber renewal notices* or the *service provider facility data*. Nor does the Specification describe how, if at all, the subscriber renewal notices or service provider facility data change or alter the functionality of the system shown in Figures 1, 2, and 4, including set top box 400, smart card 412, data processor 408, and control center 102.

Ordinarily Skilled Artisan

5. One of ordinary skill in the art would have understood data such as subscriber renewal notices to be data about billing, metadata, or any data (*e.g.*, programming purchase information) other than programming content data (*e.g.*, audio, video).

Hunter

6. Hunter teaches a video delivery and distribution system and method where a user receives metadata (data about the delivered audio/video content or programming) at a user station 28 (*i.e.*, set top box) (Figs. 1, 2, 4, 7-11; paras. 0016 and 0051). Hunter's metadata includes a time-based code key C (*i.e.*, data or programming purchase information) which is available for each available movie pertaining to whether or not the customer has a current payment history and is in good standing (Figs. 8 and 9; paras. 0082, 0083, 0087, and 0089-0094).
7. Hunter teaches that code key C is transmitted to a user via phone/modem (*i.e.*, by Internet) (para. 0082). Hunter teaches receiving broadcast information (*i.e.*, audio and video content, and/or programming purchase information - metadata) by satellite (*see* Fig. 1, satellite receiver link 30 and

satellite 20) and receiving metadata by Internet from the content provider (see Fig. 1, phone/modem connection 38 and central controller 36; para. 0051). Because the satellite broadcast information does not have to include the metadata which is sent by Internet, Hunter is capable of receiving broadcast information that utilizes satellite bandwidth no longer consumed by the metadata.

8. Hunter discloses that metadata may be sent via Internet “at appropriate times” to bill customers and to credit accounts (para. 0051:16-30), and that the time-based code keys (*i.e.*, metadata) for the transmitted movies may be sent by the satellite link *or* by the phone/modem connection (para. 0051:31-34).
9. Hunter discloses that “several alternative data transmission technologies may be utilized in place of or in addition to direct broadcast satellite” (para. 0098), and that some “[o]ther options include cable/modem transmission, Internet connection, ... , or a combination of any of the transmission means discussed herein” (para. 0100).

Nakano

10. Nakano teaches a method for receiving subscriber information such as data from databases DB1 and DB2 (Figs. 1 and 5; paras. 0022, 0027, and 0028). The data can be “financial information for each customer” (para. 0028:4-5), or can be “billing information” or “credit information” (para. 0028:6-7). Nakano specifically discloses that information (*e.g.*, cablevision programming) is received at the set top box 10 via broadcast signals (para. 0022:1-7; see Fig. 1). Nakano also provides a secure system 40 having a

secure line 46 for guaranteeing a high degree of security for subscriber information to minimize the possibility of theft of subscriber financial or billing information (Fig. 5; Abs.; paras. 0026, 0028, and 0031). Nakano discloses automatically connecting to the Internet 44 using a communication module or modem(s) (Abs.; paras. 0026:5-8, 0030, and 0034).

11. Nakano teaches that the input device 10 shown in Figure 1 can be a set top box and/or a computer or PC (*see* paras. 0012, 0022, and 0024). Nakano specifically teaches that, “[t]he input device can be any device having access to the network, including a PC and should not be limited to the input devices described herein.” (Para. 0012:5-7). In fact, Nakano discloses that, “[t]he input device 10 is actually a special purpose computer ...” (para. 0024:1-2), and that set top boxes 10 can be “integrated into a host [computer]” (para. 0027:2).

ISSUES

Rejection of Claims 40 to 66 Over Various Combinations of Nakano, Hunter, Hayward, and Yamamoto

First Issue: Independent Claims 40, 49, and 58

Appellants primarily argue in the Briefs that Hunter’s code key C is not a *subscriber renewal notice* (App. Br. 5-8; Reply Br. 9-11). Appellants also argue that Hunter’s code key C, since not a subscriber renewal notice, can not be *service provider facility data* (*see* dependent claims 42, 51, and 60) either (App. Br. 11-12).

The Examiner contends that Hunter's code key C meets the broadly recited limitation, *subscriber renewal notice* (Ans. 3-5 and 12-18), and also discloses that the subscriber renewal notice comprises *service provider facility data* (Ans. 8 and 20).

Thus, the first and most significant issue is: Did the Examiner err in determining that Hunter teaches or suggests a *subscriber renewal notice* which can be *service provider facility data*?

Second Issue: Dependent Claims 41, 50, and 59

The Examiner states that "Nakano and Hunter disclose wherein the subscriber renewal notice is traditionally broadcast via satellite" (Ans. 7). The Examiner points out that Hunter teaches or suggests that broadcast video includes decryption codes, and therefore teaches or suggests that broadcast information is received utilizing a reduced bandwidth (reduced by the amount required for the subscriber renewal notice) (Ans. 7-8) (*citing* Hunter, paras. 0051 and 0083).

Appellants assert that Hunter fails to disclose transmission of code keys C via a broadcast medium, and that the code key C cannot be a "subscriber renewal notice" as claimed (App. Br. 9-11; Reply Br. 13-14). Appellants allege that "code keys C are never disclosed anywhere [as][sic] being broadcast" (Reply Br. 13).

The Examiner contends that it was known in the art at the time of Appellants' invention that decryption keys relating to video programming are typically transmitted via broadcast and that transmission of such keys by Internet instead of broadcast saves broadcast bandwidth (Ans. 18-19).

Thus, the second issue is: Did the Examiner err in determining that the subscriber renewal notice of Nakano and Hunter is normally broadcast, as opposed to transmitted via modem?

Third Issue: Dependent Claims 43, 52, and 61

Appellants argue that even if Hunter's code key C were considered to be a subscriber renewal notice, Hunter does not send the key over a *secure connection* as required by claims 43, 52, and 61 (App. Br. 12).

The Examiner asserts that Nakano (*see* Nakano, paras. 0024 and 0036) is relied upon as teaching this feature, and not Hunter (Ans. 8 and 20).

Thus, the third issue is: Did the Examiner err in determining that the combination of Nakano and Hunter teaches or suggests using a *secure connection* to transmit a subscriber renewal notice?

Rejection of Claims 46, 47, 55, 56, 64, and 65 Over Combination of Nakano, Hunter, and Hayward

Fourth Issue: Dependent Claims 46, 47, 55, 56, 64, and 65

The Examiner combined Hayward (pertaining to computer systems) with Nakano and Hunter (pertaining to set top box systems including computers/servers) for a teaching of using a local telephone number to make an Internet connection (*see* Ans. 9-10). The Examiner determined that the combination would have been obvious since it would provide "the typical benefit of allowing a user a simple way to connect to the Internet through a local phone number" (Ans. 10).

Appellants contend there is no motivation to combine the computer of Hayward with the set top box of Nakano and Hunter since a PC and a set top box have different functionalities, are from completely different fields of art, and such a combination would not teach a set top box, but a PC connected to a set top box (App. Br. 12-14). Appellants do not dispute that Hayward teaches the local telephone number feature of the claims on appeal, only that it would not have been obvious to combine Hayward with Nakano and Hunter due to significant differences between set top boxes and computers (*see* App. Br. 14).

The Examiner contends that Nakano discloses that the input device can be a set top box or any device connected to a network, such as a PC; thus, Hayward is from a similar field of endeavor as Nakano and the combination would have been obvious (Ans. 20-21).

Thus, the fourth issue before us is: Did the Examiner err in combining Hayward with Nakano and Hunter?

PRINCIPLES OF LAW

“During examination, ‘claims ... are to be given their broadest reasonable interpretation consistent with the specification, and ... claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.’” *In re Am. Acad. of Sci. Tech. Cir.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *In re Morris*, 127 F.3d 1048, 1053-54 (Fed. Cir. 1997).

The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*,

Appeal 2009-0093
Application 09/783,241

367 F.3d 1336, 1338 (Fed. Cir. 2004); *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (*aff'd*, Rule 36, Fed. Cir., slip op. 06-1003, June 2006).

An improvement in the art is obvious if “it is likely the product not of innovation but of ordinary skill and common sense.” *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742 (2007).

The test for obviousness is what the combined teachings of the references would have suggested to the artisan. Accordingly, one can not show nonobviousness by attacking references individually where the rejection is based on a combination of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner’s position. See *In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

ANALYSIS

The Examiner rejected claims 40 to 43, 48 to 52, 57 to 61, and 66 over Nakano and Hunter, and claims 44, 45, 53, 54, 62, and 63 over Nakano and Hunter combined with Yamamoto. The first issue (pertaining to all claims 40 to 66), the second issue (pertaining only to claims 41, 50, and 59), and the third issue (pertaining only to claims 43, 52, and 61) all concern the base combination of Nakano and Hunter.

The Examiner added Hayward to the base combination of Nakano and Hunter in rejecting claims 46, 47, 55, 56, 64, and 65. The fourth issue (pertaining only to claims 46, 47, 55, 56, 64, and 65) concerns the combination of Nakano and Hunter with Hayward. We will discuss the issues in turn below.

First Issue: Did the Examiner err in determining that Hunter teaches or suggests a subscriber renewal notice which can be service provider facility data?

We agree generally with the Examiner that Hunter teaches subscriber renewal notices which can be service provider facility data (Ans. 8 *citing* Hunter, paras. 0079 and 0083), especially to the extent these limitations are broadly set forth in the claims and Specification (*see* claim 40; Findings of Fact 2 and 4).

The majority of Appellants' and the Examiner's arguments with regard to whether or not Hunter's code key C meets the limitation of a *subscriber renewal notice* miss the big picture (*see* App. Br. 5-8; Reply Br. 9-11; Ans. 12-18). A proper patentability analysis under § 103 includes beginning with (i) a construction of the relevant claim terms, including (ii) determining the patentable weight to be given those relevant claim terms, and then (iii) making a comparison with the prior art.⁶

(i) Claim Term Construction

Because "claims ... are to be given their broadest reasonable interpretation consistent with the specification, and ... claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art" (*Am. Acad. of Sci. Tech. Cir.*, 367 F.3d at 1364; *Morris*, 127 F.3d at 1053-54), one of ordinary skill in the art would interpret the phrases *subscriber renewal notice* and

⁶ "Both anticipation under § 102 and obviousness under § 103 are two-step inquiries. The first step in both analyses is a proper construction of the claims The second step in the analyses requires a comparison of the properly construed claim to the prior art." *Medichem, S.A. v. Rolabo, S.L.*, 353 F.3d 928, 933 (Fed. Cir. 2003) (internal citations omitted).

service provider facility data in light of the Specification. However, Appellants do not provide an explicit definition for these terms in the Specification (Findings of Fact 2 and 4). Nonetheless, Appellants' Specification uses the phrases *subscriber renewal notice* and *service provider facility data* in a manner that indicates the terms are broad enough to be reasonably interpreted as *data (metadata, billing data, or programming purchase information, etc.) about programming content (audio, video, etc.) that is not programming content*.

Thus, the Examiner is correct that Appellants' claims and Specification provide no specifics as to what might constitute a subscriber renewal notice (Ans. 17), and that Hunter's security keys (code keys C) meet the broadly recited claim limitations of *subscriber renewal notice* and *service provider facility data* (Ans. 14 and 17). Inasmuch as Appellants have failed to define *subscriber renewal notice* or *service provider facility data* in the Specification, including the original claims, and inasmuch as “claims ... are to be given their broadest reasonable interpretation consistent with the specification” (*Am. Acad. of Sci. Tech. Cir.*, 367 F.3d at 1364; *Morris*, 127 F.3d at 1053-54), we conclude that Hunter teaches or suggests *subscriber renewal notice* or *service provider facility data*.

(ii) *Determination of Patentable Weight of Claim Terms*

In addition, the terms *subscriber renewal notice* and *service provider facility data* are descriptive material which are not due patentable weight absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d at 1583-84; *In re Ngai*, 367 F.3d at 1338; *Ex parte Curry*, 2005-0509 (BPAI 2005), 84 USPQ2d 1272 (*aff'd*, Rule 36, Fed. Cir., slip op. 06-1003, June 2006). Appellants' Specification fails to describe any new

or unobvious functional relationship between *subscriber renewal notice* or *service provider facility data* and the system shown in Figures 1, 2, and 4, including set top box 400, smart card 412, data processor 408, and/or control center 102 (Findings of Fact 2 and 4). Therefore, the terms *subscriber renewal notice* and *service provider facility data* are non-functional descriptive material which are not due patentable weight.

(iii) *Comparison of Properly Interpreted Claims with Prior Art*

After properly determining the scope of the claims in light of the specification, including determining the patentable weight to be given to individual claim terms, a comparison is made between the claims and the prior art. *Supra* note 6. In accordance with recent guidance provided by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. at 1727, the comparison between the claims and the prior art is to be made in light of the level of ordinary skill and common sense in the art (*see KSR*, 127 S. Ct. at 1742), and “tak[ing] account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *Id.* at 1740-41.

One of ordinary skill in the art would have understood data such as *subscriber renewal notices* or *service provider facility data* to be data about billing, metadata, or any data (*e.g.*, programming purchase information) other than programming content data (*e.g.*, audio, video) (Finding of Fact 5). The ordinarily skilled artisan would infer that any type of metadata, billing data, or purchase programming information would be beneficially transmitted over the Internet to reduce the bandwidth load on the satellite broadcast and increase signal quality for the audio/video content.

Hunter's code key C is used to provide proof of good standing and to permit decryption of available movies (paras. 0082 and 0083), and plural code keys C are delivered to each user monthly over the Internet (para. 0083). In other words, code keys C allow the service provider to know which movies a customer has paid for and has the right to watch. Thus, Hunter's code keys C are programming purchase information or metadata (data about the audio/video content or data that is not content data) which is encompassed by the broad recitation of non-functional descriptive material (*i.e.*, subscriber renewal notice and service provider facility data) in Appellants' claims.

In view of the foregoing, Appellants have not shown that the Examiner erred in interpreting the terms *subscriber renewal notice* or *service provider facility data* as broadly encompassing the code key C disclosed by Hunter.

Second Issue: Did the Examiner err in determining that the subscriber renewal notice of Nakano and Hunter is normally broadcast, as opposed to transmitted via modem?

Claims 41, 50, and 59 each recite "wherein the subscriber renewal notice is traditionally broadcast via satellite," and the received broadcast information "utilizes satellite bandwidth no longer consumed by the subscriber renewal notice" (claims 41, 50, and 59).

We agree with the Examiner that "Nakano and Hunter disclose wherein the subscriber renewal notice is traditionally broadcast via satellite" (Ans. 7), based on the fact Hunter teaches or suggests broadcast information can include decryption codes, and therefore broadcast information is received utilizing a reduced bandwidth (reduced by the amount required for the subscriber renewal notice)

(Ans. 7-8) (*citing* Hunter, paras. 0051 and 0083). Hunter specifically teaches broadcasting code keys or metadata as well as sending them over the Internet (Findings of Fact 7 and 9; Hunter, para. 51:31-34).

The Examiner is correct that one of ordinary skill in the art would have known that decryption keys relating to video programming are typically transmitted via broadcast and that transmission of such keys by Internet instead of broadcast saves broadcast bandwidth (*see* Ans. 18-19). Even Appellants recognize that this feature was known in the art at the time of filing the Specification (Finding of Fact 3).

In view of the foregoing, Appellants have not shown that the Examiner erred in determining that the combination of Nakano and Hunter teaches or suggests that the subscriber renewal notice is normally broadcast via satellite, as opposed to over the Internet, as recited in claims 41, 50, and 59.

Third Issue: Did the Examiner err in determining that the combination of Nakano and Hunter teaches or suggests using a secure connection to transmit the subscriber renewal notice?

Claims 43, 52, and 61 each recite establishing “a *secure electronic connection* with a server through the connection to the Internet, wherein the subscriber renewal notice is received through the *secure electronic connection*” (claims 43, 52, and 61) (emphasis added).

Appellants assert that Hunter fails to teach using such a secure connection (App. Br. 12). However, *Nakano* teaches transmitting billing information or metadata over a secure electronic connection to protect the information from theft (Finding of Fact 9), and was relied on by the Examiner as teaching this limitation

as recited in claims 43, 52, and 61 (Ans. 8). Appellants cannot show non-obviousness by attacking references individually (*i.e.*, Hunter) where rejections are based on a combination of references (*i.e.*, Nakano and Hunter). *In re Keller*, 642 F.2d at 426. In the instant case, Appellants' argument that Hunter does not teach a secure connection is unpersuasive, since Nakano was relied upon by the Examiner as teaching this limitation (*see* Ans. 8 *citing* Hunter, paras. 0026 and 0034).

In view of the foregoing, Appellants have not shown that the Examiner erred in determining that the combination of Nakano and Hunter teaches or suggests the *secure connection* limitation of claims 43, 52, and 61.

Fourth Issue: Did the Examiner err in combining Hayward with Nakano and Hunter (claims 46, 47, 55, 56, 64, and 65)?

The Examiner is correct that Nakano discloses the input device can be a set top box or any device connected to a network, *such as a PC* (Finding of Fact 10). The Examiner is also correct that Hayward is therefore from a similar field of endeavor as Nakano and that the combination would have been obvious (Ans. 20-21). Accordingly, we are not persuaded by Appellants' argument that the Examiner erred in combining Hayward with Nakano and Hunter.

Summary

For all of the above reasons, Appellants' arguments have not persuaded us of error in the Examiner's rejections of claims 40 to 66 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Nakano, Hunter, Hayward, and Yamamoto. We sustain the Examiner's rejections.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred in determining that Hunter teaches or suggests a *subscriber renewal notice* which can be *service provider facility data*.

Appellants have not shown that the Examiner erred in determining that the subscriber renewal notice of Nakano and Hunter is normally broadcast, as opposed to transmitted via modem.

Appellants have not shown that the Examiner erred in determining that the combination of Nakano and Hunter teaches or suggests using a secure connection to transmit the subscriber renewal notice.

Appellants have not shown that the Examiner erred in combining Hayward with Nakano and Hunter.

ORDER

The decision of the Examiner to reject claims 40 to 66 is affirmed.

Appeal 2009-0093
Application 09/783,241

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

KIS

THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA/LA1/A109
2230 E. IMPERIAL HIGHWAY
EL SEGUNDO, CA 90245